THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL NO.1502 OF 2004

Dated: 21-11-2005

Between:

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The Government of Andhra Pradesh rep. by its

Secretary to Government, Tribal Welfare and others

…Petitioners

and

1. K.Mahalaxmi (died)

2. P.Rajeswari (died)

3. Pendram Dharmu and others …Respondents

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J U D G M E N T (Per the Hon'ble Sri Bilal Nazki, ACJ):

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Heard learned counsel for the parties and perused the record.

The writ petition was filed by one K.Mahalaxmi and P.Rajeswari challenging the order of the Agent to the Government and also of the Government, dated 23-06-1990 and 26-03-1997 respectively. Earlier, these orders were set aside in the writ petition by a learned Single Judge of this Court on 28-08-2000 holding that the transactions in favour of the writ petitioners in respect of the lands were not hit by the provisions

of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, as amended by Regulation 1 of 1970 (for short "the Regulation"). The order of the learned Single Judge was challenged in a writ appeal being W.A.No.13 of 2001. A Division Bench of this Court on 27-08-2002 took a view that the question as to whether any transaction came into existence subsequent to 03-02-1970, which was the crucial date under the Regulation had not at all been dealt with properly, and accordingly set aside the judgment of the learned Single Judge and the matter was remanded for fresh adjudication. The case of the writ petitioners was that the petitioners had come into possession after sale of the land in favour of a non-tribal by a tribal in 1338 fasli and thereafter, if there was any transaction with respect to the land, it was between non-tribals only and it was before 03-02-1970. According to them, the last transfer of land was by way of a sale on 14-06-1965 when the mother of the writ petitioners had purchased the land from one Purnachandra Rao and thereafter the land was gifted in favour of the petitioners in the year 1966-67. Since there was no transaction after 03-02-1970, therefore the orders passed by the authorities were illegal. The learned Single Judge dealt with the matter and he distinguished earlier judgment of the Division Bench in ***Special Deputy Collector, Palawancha v. Gummadapu Mohan Rao*** and had of the view that this judgment was contrary to the law laid down by the Supreme Court in ***Deputy Collector vs. S.Venkataramanaiah***. Therefore, the learned Single Judge allowed the writ petition, recording a finding that there had been no transfer of land after 03-02-1970. We do not want to comment whether the judgment of the Division Bench was contrary to the judgment of the Supreme Court or not, because in any case if that was the case, the matter should have been referred to a Larger Bench, so that the Larger Bench could have examined as to whether the judgment of the Division Bench was contrary to the judgment of the Supreme Court. We keep this matter open. However, on facts, we do not think that the writ appellants have shown any material either to the authorities or to the High Court that any transaction had taken place after 03-02-1970. However, the learned Government Pleader for Social Welfare submits that even in 1997, two sale deeds were executed by the tribals in favour of other tribals. If that is the case, the writ appellants shall be at liberty to proceed in accordance with law against the respondents-writ petitioners on the basis of the alleged sale deeds executed in the year 1997.

The judgment of the learned Single Judge with respect to the orders impugned before this Court in the writ petition is upheld. The writ appeal is disposed of with liberty to the appellants to proceed against the respondents-writ petitioners, in case there has been any violation of the Regulations subsequent to enforcement of these Regulations. No order as to costs.

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(Bilal Nazki, ACJ)

21st November, 2005

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(R.Subhash Reddy,J)

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